

ASSEMBLY BILL

No. 1392

Introduced by Committee on Insurance

March 4, 2013

An act to amend Section 1279.5 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1392, as introduced, Committee on Insurance. Unemployment insurance: work sharing plans.

Under existing law, unemployment compensation benefits are payable from the Unemployment Fund to eligible unemployed individuals. Under existing law, an individual is unemployed under specified circumstances, including when he or she performs no services and receives no pay. Existing law deems an individual unemployed in any week that the individual works less than his or her normal weekly hours of work for the individual's regular employer due to participating in a specified work sharing plan that has been approved by the Director of Employment Development and adopted by the employer to avoid a layoff, if the employee's wages have been reduced by at least 10%.

This bill would provide that an individual is deemed unemployed for these purposes in any week that the individual works less than his or her normal weekly hours due to participating in a work sharing plan described above that is adopted by the employer and approved by the director, to avoid a layoff, if the employee's wages have been reduced by at least 10% but not more than 60%.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1279.5 of the Unemployment Insurance Code is amended to read:

1279.5. (a) Notwithstanding Section 1252 or 1252.2 or any other provision of this part, for the purposes of this section an individual is “unemployed” in any week if the individual works less than his or her normal weekly hours of work for the individual’s regular employer, and the director finds that the regular employer has reduced or restricted the individual’s normal hours of work, or has rehired an individual previously laid off and reduced that individual’s normal hours of work from those previously worked, as the result of a plan by the regular employer to, in lieu of layoff, reduce employment and stabilize the work force by a program of sharing the work remaining after a reduction in total hours of work and a corresponding reduction in wages of at least 10 percent *but no more than 60 percent*. The application for approval of a plan shall require the employer to briefly describe the circumstances requiring the use of work sharing to avoid a layoff. Normal weekly hours of work means the number of hours in a week that the employee normally would work for the regular employer or 40 hours, whichever is less. The plan must involve the participation of at least two employees and include not less than 10 percent of the employer’s regular permanent work force involved in the affected work unit or units in each week, or in at least one week of a two-consecutive-week period. A plan approved by the director shall expire six months after the effective date of the plan.

(b) Except as otherwise provided in this section, each individual eligible under this chapter who is “unemployed” in any week shall be paid with respect to that week a weekly shared work unemployment compensation benefit amount equal to the percentage of reduction of the individual’s wages resulting from an approved plan, rounded to the nearest 5 percent, multiplied by the individual’s weekly benefit amount.

(c) No individual who receives any benefits under this section during any benefit year shall receive any benefits pursuant to Section 1252 or 1252.2 as a partially unemployed individual with respect to any week during such benefit year while in employment status with the regular employer who initiated the program of

1 sharing work under this section. No benefits under this section
2 shall be payable on any type of extended claim.

3 (d) Any amount payable under this section shall be reduced by
4 the amount of any and all compensation payable for personal
5 services whether performed as an employee or an independent
6 contractor or as a juror or as a witness, except compensation
7 payable by the regular employer under a shared work plan.

8 For the purposes of this subdivision, “regular employer” may
9 include, pursuant to an approved plan, a labor organization which
10 periodically employs individuals in accordance with a collective
11 bargaining agreement.

12 (e) The benefit payment under this section, if not a multiple of
13 one dollar (\$1), shall be increased to the next higher multiple of
14 one dollar (\$1).

15 (f) Sections 1253.5 and 1279 shall not apply to any individual
16 eligible for any payment under this section.

17 (g) For the purposes of this section, an individual shall not be
18 disqualified under subdivision (c) of Section 1253 for any week
19 if both of the following conditions exist:

20 (1) The individual has not been absent from work without the
21 approval of the regular employer.

22 (2) The individual accepted all work the regular employer made
23 available to the individual during hours scheduled off due to the
24 work-sharing plan.

25 (h) Except as otherwise provided by or inconsistent with this
26 section, all provisions of this division and authorized regulations
27 apply to benefits under this section. Authorized regulations may,
28 to the extent permitted by federal law, make such distinctions and
29 requirements as may be necessary in the procedures and provisions
30 applicable to unemployed individuals to carry out the purposes of
31 this section, including regulations defining normal hours, days,
32 workweek, and wages.

33 (i) Employees shall not be eligible to receive any benefits under
34 this section unless their employer agrees, in writing, and their
35 bargaining agent pursuant to any applicable collective bargaining
36 agreement agrees, in writing, to voluntarily participate in the shared
37 work unemployment insurance benefit program created by this
38 section.

39 (j) Notwithstanding Section 1327, the department shall not be
40 required to notify an employer of additional claims which result

- 1 from an approved plan submitted by the employer under which
- 2 benefits are not paid in each week.
- 3 (k) The director may terminate a shared work plan for good
- 4 cause if the plan is not being carried out according to its terms and
- 5 intent.